

§ 2-205. Bill of exceptions, making, preserving, transcribing, and delivery of record of trial or other proceeding.

(A) As allowed by the schedule implemented by the Supreme Court and when available electronically, the following rules below shall apply.

(B) Transcribing and Delivery of Record; the Bill of Exceptions.

(1) How Ordered, Contents, and Per-Page Rate.

(a) An attorney may E-File a request to prepare a bill of exceptions with the clerk of the trial court. Such request, if made through E-Filing, shall be served through E-Service upon the court reporting personnel currently entered in JUSTICE as the primary court reporting personnel for the trial judge assigned to the court case or, if no court reporting personnel information is available, the request shall be served on the currently assigned trial judge.

(b) Where a request for bill of exceptions is E-Filed, the attorney shall serve the request for bill of exceptions upon all opposing parties through E-Service.

(c) An attorney may E-File a supplemental request for preparation of bill of exceptions with the clerk of the trial court. Such request, if made through E-Filing, shall also be served through E-Service upon the court reporting personnel currently entered in JUSTICE as the primary court reporting personnel for the trial judge assigned to the court case or, if no court reporting personnel information is available, the request shall be served on the currently assigned trial judge. The request shall also be served on all opposing parties by E-Service.

(d) [Reserved.]

(e) The per-page fee to which court reporting personnel or privately contracted court transcriber is entitled shall be \$3.75 per page for an electronic bill of exceptions. If the appellant fails to timely make the required deposit of the estimated cost of preparation, court reporting personnel shall forthwith file through E-Filing a notice of such failure with the clerk of the trial court, who shall transmit an electronic copy of the notice through System-To-System Transfer to the Clerk of the Supreme Court and Court of Appeals. The page rate specified in § 2-105(B)(1)(e) shall apply to all other transcripts of proceedings prepared by court reporting personnel.

(f) Settlement. If the circumstances referenced in § 2-105(B)(1)(f) arise, the statement advising the court reporting personnel that settlement has been reached may be E-Filed with the clerk of the trial court. Where E-Filing is used to file a settlement, service shall be made and proved through E-Service. The clerk of the trial court shall forthwith transmit to the Clerk of the Supreme Court and Court of Appeals through System-To-System Transfer a copy advising that settlement has been reached.

(2) Delivery of Copy of Request. The clerk of the trial court shall file with the Clerk of the

Supreme Court and Court of Appeals an electronic copy of each request through System-To-System Transfer using JUSTICE procedures.

(3) Preparation and Delivery by Court Reporting Personnel. As allowed by the schedule implemented by the Supreme Court and when available electronically, the following rules shall apply.

(a) The electronic bill of exceptions shall be E-Filed with the clerk of the trial court as soon as possible, at which time the clerk of the trial court shall forthwith transmit the electronic bill of exceptions to the Clerk of the Supreme Court and Court of Appeals through System-To-System Transfer. The time limits established by § 2-105(B)(3)(a) are not changed by this section. If the bill of exceptions is not filed within the time limit established by § 2-105(B)(3)(a), E-Notice shall be provided to the court reporting personnel currently entered in JUSTICE as the primary court reporting personnel for the trial judge currently assigned to the trial court case, or if no court reporting personnel information is available, the currently assigned trial judge. This provision for E-Notice to the court reporting personnel does not affect the responsibility of court reporting personnel to request an extension of time using the procedures required by § 2-105(B)(4).

(b) The court reporting personnel or privately contracted transcriber shall submit the bill of exceptions electronically in a PDF that is searchable. The standardized naming of files contained in the electronic bill of exceptions shall be as follows: **YY-####EBOEvv.pdf** (where YY-####=the appellate case number as assigned by the Clerk of the Supreme Court and Court of Appeals and vv=the two-digit volume number, starting with 01). For example, the first volume of the electronic bill of exceptions for the first appeal docketed in 2013 would be named **13-0001EBOE01.pdf**. The filing of an electronic bill of exceptions under this rule excuses the court reporting personnel or privately contracted transcriber from preparing the computer disks, DVD's, or CD's referenced in § 2-105(B)(3)(b)(i).

The trial court has the duty to seal any portion of the record that is confidential. Sealed portions of the bill of exceptions are to be sent as a separate electronic file and shall be named as follows: **YY-####EBOEvv[C].pdf**. For example, a confidential volume of the electronic bill of exceptions for the first appeal docketed in 2013, and which was the first volume of the electronic bill of exceptions, would be named **13-0001EBOE01[C].pdf**. All sealed portions of the record should be consolidated into one volume, unless multiple volumes are necessitated by the size of the record. Volume numbers shall be sequential without any repetition or duplication whether or not the volume is flagged as confidential.

(c) [Reserved.]

(d) [Reserved.]

(4) Extension of Time for Preparation of Bill of Exceptions.

(a) [Reserved.]

(b) Any requests for additional time for preparation of the bill of exceptions, made by motion or by stipulation of all parties to the action, may be E-Filed. Where E-Filing is used to file a request for additional time for preparation of the bill of exceptions, service shall be made and proved through E-Service.

(c) [Reserved.]

(d) [Reserved.]

(5) Amendments to the Bill of Exceptions. Any amendments to the electronic bill of exceptions and/or order of the trial court regarding amendments may be E-Filed.

(6) Form of the Bill of Exceptions.

(a) [Reserved.]

(b) [Reserved.]

(c) Each page of the electronic bill of exceptions shall be formatted to accommodate printing on 8½ inches x 11 inches paper and shall have line and page numbers. Each page shall consist of 25 lines of testimony and proceedings, exclusive of headings and page numbers and be portrait orientation. The text shall be in not smaller than 12-point Courier, Arial, Helvetica, Times, or Times New Roman font, double spaced, with not less than 12 points of leading.

The physical binding and front cover and back requirements and per-volume page limit are inapplicable to electronic bills of exceptions. This does not affect the requirement for a cover page, which shall be the first page of the electronic bill of exceptions.

Each volume of the electronic bill of exceptions shall be 39 MB in size or smaller. All other formatting requirements applicable to the preparation of the electronic bill of exceptions shall be as set forth in § 2-105(B)(6).

Exhibits may be inserted in the electronic bill of exceptions immediately following where they are ruled on by the court or may be compiled in a separate PDF file with an index and corresponding bookmark for each exhibit. The provisions regarding exhibits in § 2-105(B)(6)(c) shall apply, except documents and photographs shall be scanned to a PDF. However, under no circumstances shall exhibits constituting visual depiction of sexually explicit conduct involving a child be scanned or electronically transmitted. See § 2-216(B)(2). The party offering any documentary exhibit shall provide an electronic image of the document to the court reporting personnel in an electronic format acceptable to the court reporting personnel. The party offering any nondocumentary item of physical evidence shall provide an electronic image of the nondocumentary item of evidence, which fairly and accurately depicts the item. The image shall be provided in an electronic format acceptable to the court reporting personnel. If the party offering an exhibit fails to provide an image, the court reporting personnel shall cause one to be made at the offering party's expense. The court reporting personnel shall in all instances preserve the exhibit and shall make it available to the Supreme Court or Court of Appeals upon request during pendency of the appeal process. Retention of exhibits shall otherwise be as provided in Neb. Ct. R. § 1-210 of the Court Reporting Personnel Rules.

(7) [Reserved.]

(8) Bound Volumes and Exhibits of the Bill of Exceptions. Upon implementation, all bills of exceptions shall be filed in electronic form, notwithstanding any format requested by any party or counsel. Where there is an electronic bill of exceptions, no bound volumes of the bill of

exceptions shall be prepared by court reporting personnel or filed with the trial court. If a physical exhibit is requested to be sent to the Clerk of the Supreme Court and Court of Appeals, it shall be sent by the clerk of the trial court by United Parcel Service or the U.S. Mail. In all other instances regarding actual exhibits, the procedure outlined in § 2-105(B)(8) shall apply.

(9) [Reserved.]

(10) [Reserved]

(11) [Reserved.]

(12) Statement of Cost. The Court reporting personnel shall include as part of the court reporting personnel's certification a statement of the cost of the electronic bill of exceptions. The statement of cost for an electronic bill of exceptions shall use the per-page rate specified in § 2-205(B)(1)(e).

(13) Case Stated. The case stated may be E-Filed with the clerk of the trial court at which time the clerk of the trial court shall forthwith transmit notice of such filing electronically to the Clerk of the Supreme Court and Court of Appeals.

§ 2-205(A), (B)(1)(a, b, c, e, f), (B)(3)(a-b), (B)(4)(b), (B)(5), (B)(12), (B)(13) amended October 19, 2016.
